

SEQRA and Subdivisions— What you need to know

Schoharie Turbidity Reduction Strategy
Watershed Summit
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Subdivision

- The division of any parcel of land into a number of lots, blocks, or sites as specified in a local ordinance, law, rule or regulation, with or without streets or highways, for the purpose of sale, transfer of ownership, or development.

Subdivision

- The term “subdivision” may include any alteration of lot lines or dimensions of any lots or sites show on a plat previously approved and filed in the office of the County Clerk or register of the County in which said plat is located.

Subdivision

- Subdivisions may be defined and delineated by local regulation, as either “major” or “minor”, with the review procedures and criteria for each set forth in such local regulations
- Town Law Section 276 and 277
- Village Law Section 7-728 and 7-730



Subdivision Plat Approval

- ❑ Most common review-and-approval function delegated to Planning Board
- ❑ Assigned to Planning Board through regulation or local law
- ❑ Governing Board must supersede home rule power to retain subdivision approval power or give to another board
- ❑ Subdivision regulations may be recommended to the Governing Board by the Planning Board

Authority in New York State

Subdivision of Land

- ❑ Real Property Law Section 334 – map must be filed with the County Clerk prior to sale
- ❑ Town Law Section 276 – authorization and procedures for review and approval of subdivisions
- ❑ Public Health Law Section 1115 – to assure proper water and sewage facilities
- ❑ Environmental Conservation Law Section 17-1501 – complements Public Health Law – map/plan must be filed with DOH or local health department showing “adequate and satisfactory sewerage facilities” and facilities installed

Authority in New York State

Subdivision of Land

- ❑ General Municipal Law Section 239-n – county review of certain subdivision plats
- ❑ Public Service Commission – undergrounding of electric for lots with less than 200' frontage
- ❑ Town Law Section 280-a(5) – frontage presumed sufficient for access (emergency vehicles)
- ❑ Town Law Section 283-a – Agricultural Districts – laws/regulations do not reasonably restrict or regulate farming practice – agricultural data sheet to be filed with applications requiring municipal review



Realty Subdivisions

- A subdivision of land over a three year period or less into five residential lots or more that are 5 acres or less in size.
- The applicant will need Health Department approval
 - Water supply
 - Sewage disposal
 - Public Health Law Article 11, Title II
 - Environmental Conservation law Article 17, Title 15



Buildable Lot

- ❑ Safe and adequate water supply
- ❑ Soil conditions and terrain which will support the proposed type of sewerage system
- ❑ Access by emergency vehicles
- ❑ Drainage and flood control
- ❑ Zoning Compliance/area variance
- ❑ Wetlands



Design Issues

- ❑ Steep Slopes
- ❑ Streams
- ❑ Unusual features
- ❑ Preservation of views
- ❑ Comprehensive Plan objectives
- ❑ Access to Road – Town Law Section 280-a
- ❑ Cluster Subdivisions
- ❑ Parkland



Major Subdivision Stages of Review

- ❑ Sketch Plan – Not required by State Law
- ❑ Preliminary Plat – Municipalities may choose not to require this step
- ❑ Final Plat

Sketch Plan

- Optional, or may be required by local law
- No time periods or specific procedures for this stage
- Planning Board is not bound by its comments
- Determine conformance to zoning and subdivision requirements
- Make suggestions regarding design and layout
- Determine if subdivision is major/minor
- Identify necessary permits
- Discuss compliance with SEQRA
- Initiate preparation of EAF

Preliminary vs. Final Plats

□ Preliminary Plats

- Proposed street layouts
- Proposed lot layouts
- Lot size
- Lot dimensions
- Proposed easements
- Existing streets
- Location map
- General contours
- Significant vegetation

□ Final Plats

- Final street layout
- Final lot layout
- Final lot dimensions
- Lot number
- Permanent easements
- Final grading plans
- Final utilities plans
- Street names
- Lands to be dedicated
- Vegetation to be preserved

Procedural Steps:

Preliminary vs. Final Plats

- If both are required
 - May need to make two determinations of significance
 - May need to refer to the County for final plat review as well
 - Might need a second public hearing during final plat review
 - Make SEQRA findings
- If only Final Plat is required
 - Determination of significance
 - Referral to County
 - Public hearing
 - Make SEQRA Findings



State Environmental Quality Review Act - SEQRA

- ❑ Originally enacted in 1987
- ❑ 6 NYCRR Part 617
- ❑ The purpose of SERQA is to incorporate consideration of environmental factors in existing planning, review and decision making processes.



Actions subject to SEQRA include

- ❑ Projects undertaken, funded or requiring approval by an agency
- ❑ Planning and Policy making activities that may affect the environment or commit an agency to a course of action
- ❑ Adoption of rules, regulations or procedures
- ❑ Any combination of the above



SEQRA and Subdivision....

- ❑ SEQRA is required for all discretionary permitting approvals.
- ❑ SEQRA lead agency is usually the entity with the lowest level of permitting authority.
- ❑ NY Courts have held that the Board doing the review needs to have done a hard look at the environmental issues.



SEQRA and Subdivision

- ❑ Most Subdivisions are Unlisted actions
- ❑ Some may be Type I actions
- ❑ All time clocks set in other laws stop until a SEQRA determination have been made.



Coordinated Review

- If more than one permitting agency has descretionary permitting approval, Coordinated Review is
 - Required if the action is on the Type I list
 - Optional if the action is unlisted, as most subdivisions are.

SEQRA and the Subdivision

- The application is not complete until a determination has been made under SEQRA regarding the subdivision.
 - If a negative declaration has been prepared, the application moves forward
 - If a positive declaration has been made, then the process does not continue until a final environmental impact statement has been prepared and a determination has been made.



Determining Significance

- ❑ For Unlisted Actions, use the Short or Long Environmental Assessment Form
- ❑ For Type I Actions, the Long Environmental Assessment Form is required
- ❑ Part I is completed by the applicant
- ❑ Parts II and III are completed by the Board

Will this Action create a
significant adverse impact on
the Environment?

NYC DEP involvement

- If a project does not meet the definition of “subdivision” under the watershed regulations, then coordinated review is not required.
 - Subdivision means any tract of land which is divided into five or more parcels of five acres or less, along an existing or proposed street, highway, easement or right-of-way, for sale or rent as residential lots. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth residential lot therefrom within any consecutive three year period
- If a subdivision will disturb more than 1 acre, approval of a stormwater pollution prevention plan by DEP and NYS DEC is mandatory.



Public Hearings

- ❑ Must be combined with the required public hearing for an Environmental Impact Statement
- ❑ Must be held within 62 days of determining the application is complete
- ❑ Cannot be held open longer than 120 days.



County Planning Review

- ❑ Where authorized, the review is required under GML Section 239 n
- ❑ Can recommend approval, approval with modifications, or disapproval
- ❑ Can determine the proposed action has no county-wide or intermunicipal impact
- ❑ Referring Body cannot act until it hears back from the County or 30 days after referral



Decisions and Conditions of Approval

- ❑ Decisions must be made within 62 days after close of hearing
- ❑ Decision has to be filed with the municipal clerk within five days
- ❑ File the approved plat in the County Clerk's office within 62 days

Pine Island Subdivision



Sketch Plan

- ❑ Discussions started as early as January of 2004
- ❑ Initially forty five lots were proposed on 400 acres with 4 interior private roads.
- ❑ There would be a common area, near the pond
- ❑ Located on a Town Road and a County Road, with at questionable intersection
- ❑ There were opportunities to gather input from the public during the Planning Board meetings



Preliminary Plat

- ❑ Application accepted as complete in May of 2004
- ❑ Public Hearing Scheduled for June 2004



During the Public Hearing...

- ❑ Concerns over the Town and County road intersection
- ❑ Two electric companies were going to serve the subdivision. Some wanted all underground utilities
- ❑ People wanted access to the pond



Final Plat

- ❑ Lots reduced to 38, and three interior roads
- ❑ Reviewed by the County Planning Commission in September
- ❑ Stormwater Pollution Prevention Plan verbally approved by DEP and DEC in August
- ❑ Final approval granted in November



Points to remember

- ❑ Subdivision definition in the Watershed Rules and Regulations
- ❑ The right consultants make a huge difference in the process, for both the developer and the planning board.
- ❑ Public input as soon as possible
- ❑ Knowing who the involved agencies are is important
- ❑ Handling the public when they are upset is a necessary skill for the planning board as well as the developer
- ❑ Following the right procedures for creation of the Homeowners Association is important.

Questions???

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